REMARKS

The Applicants request reconsideration of the rejection. Claims 34-49 are now pending.

On February 18, 2000 and October 31, 2002, the Applicants filed Information Disclosure Statements (IDS). However, the Examiner has not returned the initialed Forms PTO-1449. Accordingly, it is requested that the Examiner initial and return copies of the attached Forms PTO-1449 to indicate that the documents have been considered.

Claims 16-20, 24-28, and 32-33 were rejected under 35 U.S.C. § 102(e) as being anticipated by Fisher et al U.S. Patent No. 5,835,896 (Fisher). Claims 22-23 and 30-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fisher. Finally, claims 21 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fisher in view of Fujisaki U.S. Patent No. 4,789,928 (Fujisaki) or Ausubel U.S. Patent No. 6,026,383 (Ausubel).

The Applicants traverse the finding that any of these prior art references, whether taken individually or in combination, anticipates or renders obvious the invention set forth in either the rejected claims or the new claims. Because the rejected claims are no longer subject to examination, their patentability is a moot issue. However, no

admission as to the propriety of the rejections is made by the Applicants.

The new claims are also patentable over the prior art applied by the Examiner. Fundamentally, the invention set forth in each of the new claims is patentably different from Fisher because Fisher does not define the claimed "competitive state", which is a key feature of the present invneiton. In particular, the present invention determines that a competitive state occurs when there is more than one remaining bidder who has sent price information by which it is judged that the current auction price is equal to or lower than the price that the bidder thinks acceptable to pay. When a competitive state is judged to occur, the auction price is increased by a predetermined value and the judging of each bidder's acceptable price, determining of remaining bidders, and judging again of whether a competitive state occurs, are repeated. Thus, the present invention is characterized by increasing the auction price by this predetermined value, and repeating the successful bidder determining process.

While Fisher discloses the maximum amount that each bidder is willing to pay, when a new bidder places a bid that is above a currently displayed high bid, Fisher's proxy feature causes the currently high bid to move up to an amount

higher than the new bid, up to the maximum amount of the currently high bidder's proxy bid. One might consider that this disclosure is similar to the claimed "competitive state". However, as set forth in the claims, a "competitive state" occurs when there is more than one remaining bidder satisfying the condition that the current auction price is equal to or lower than the bidder's price thought to be acceptable to pay. In the "competitive state", the present invention increases the auction price by the claimed predetermined value, independently of the price that the bidder thinks acceptable to pay, and repeats the process for determining a successful bidder. Fisher does not repeat the proxy bidding process unless the superseded high price can be increased above a new high bid. The result is different knock-down prices for Fisher and the claimed invention.

In this regard, although Fisher appears to teach that the bid manager increments the proxy bids by a preset bid increment in a fashion similar to that of the claimed invention, in fact, Fisher's incrementing process is performed only on the active proxy bids marked as unsuccessful (see column 9, lines 18-35). The preset bid increment is not for solving a competitive state. Furthermore, the claimed "predetermined value" is an increase of the auction price,

which may be different than the unsuccessful active proxy bids.

The secondary references to Fujisaki and Ausubel are not directed to solving a competitive state as claimed. Therefore, even in combination with Fisher, these references do not lead the person of ordinary skill to the present invention.

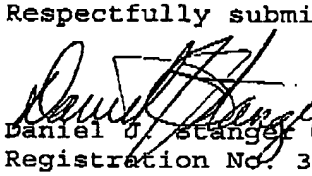
For each of the foregoing reasons, the Applicants submit that new claims 34-49 patentably define over the art of record, and request an early allowance of the application.

The Applicants further wish to address the Examiner's comments in the paragraph bridging pages 1 and 2 of the Office Action. In this paragraph, the Examiner goes to some length to discuss alleged similarities between the auction method employed by eBay.com and the presently claimed invention. However, the auction method employed by eBay.com is not of record in the present application file. Furthermore, no document disclosing an auction method employed by eBay.com has been produced from which the Applicants can determine similarities and differences from the claimed invention, or from which the Applicants can determine whether the Examiner's comments are accurate. In addition, there is no indication that any eBay.com method discussed by the Examiner existed

prior to the invention priority date enjoyed by the present application. Furthermore, although the Examiner's comments draw a comparison between the disclosure of Fisher and the alleged method of eBay.com, the record does not show that there are relevant similarities between these two methods. For each of the foregoing reasons, the Applicants request that the Examiner either produce a document disclosing the eBay.com method which is provable as prior art to the present invention, or withdraw the comments set forth in the bridging paragraph.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

Respectfully submitted,



Daniel G. Stanger
Registration No. 32,846
Attorney for Applicants

MATTINGLY, STANGER & MALUR, P.C.
1800 Diagonal Road, Suite 370
Alexandria, Virginia 22314
Telephone: (703) 684-1120
Facsimile: (703) 684-1157
Date: May 26, 2004